

MESSAGE NO: 8143203 MESSAGE DATE: 05/22/2008

MESSAGE STATUS: Active CATEGORY: Antidumping
TYPE: PRE-Preliminary PUBLIC ☒ NON-PUBLIC ☐
SUB-TYPE:

FR CITE: FR FR CITE DATE:

REFERENCE 8073203
MESSAGE #
(s):

CASE #(s): A-570-912

EFFECTIVE DATE: COURT CASE #:

PERIOD OF REVIEW: TO

PERIOD COVERED: 11/22/2007 TO

Lifting of Suspension Date:

TO: { Directors Of Field Operations, Port Directors }

FROM: { Director AD/CVD & Revenue Policy & Programs }

RE: PRELIM AFFIRMATIVE CRITICAL CIRCUMSTANCES DETERMINATION FOR
CERTAIN NEW PNEUMATIC OFF-THE-ROAD TIRES FROM CHINA EXP'D UNDER THE PRC-
WIDE NUMBER (A-570-912-000)

MESSAGE NO: 8143203

DATE: 05 22 2008

CATEGORY: ADA

TYPE: PRE

REFERENCE: 8073203

REFERENCE DATE: 03 13 2008

CASES: A - 570 - 912

- -

- -

- -

- -

- -

PERIOD COVERED: 11 22 2007 TO

LIQ SUSPENSION DATE:

TO: DIRECTORS OF FIELD OPERATIONS

PORT DIRECTORS

FROM: DIRECTOR, SPECIAL ENFORCEMENT

RE: PRELIM AFFIRMATIVE CRITICAL CIRCUMSTANCES DETERMINATION
FOR CERTAIN NEW PNEUMATIC OFF-THE-ROAD TIRES FROM CHINA
EXP'D UNDER THE PRC-WIDE NUMBER (A-570-912-000)

1. ON 04/21/2008, THE DEPARTMENT OF COMMERCE PUBLISHED IN THE
FEDERAL REGISTER (73 FR 21312) ITS AFFIRMATIVE PRELIMINARY
DETERMINATION OF CRITICAL CIRCUMSTANCES IN THE ANTIDUMPING DUTY
INVESTIGATION OF CERTAIN NEW PNEUMATIC OFF-THE-ROAD TIRES FROM
THE PEOPLE'S REPUBLIC OF CHINA.

2. ON 02/20/2008, THE DEPARTMENT OF COMMERCE PUBLISHED IN THE
FEDERAL REGISTER ITS PRELIMINARY DETERMINATION OF SALES AT LESS

THAN FAIR VALUE AND THE POSTPONEMENT OF THE FINAL DETERMINATION IN THE ANTIDUMPING DUTY INVESTIGATION OF CERTAIN NEW PNEUMATIC OFF-THE-ROAD TIRES ("OTR TIRES") FROM THE PEOPLE'S REPUBLIC OF CHINA (73 FR 9278).

3. AS A RESULT OF THIS AFFIRMATIVE PRELIMINARY DETERMINATION OF CRITICAL CIRCUMSTANCES, CBP SHALL SUSPEND LIQUIDATION OF ALL ENTRIES OF CERTAIN NEW PNEUMATIC OFF-THE-ROAD TIRES FROM THE PEOPLE'S REPUBLIC OF CHINA EXPORTED BY THE PRC-WIDE ENTITY (A-570-912-000), THAT WERE ENTERED, OR WITHDRAWN FROM WAREHOUSE, FOR CONSUMPTION ON OR AFTER 11/22/2007, WHICH IS 90 DAYS PRIOR TO THE DATE OF PUBLICATION IN THE FEDERAL REGISTER OF THE PRELIMINARY DETERMINATION OF SALES AT LESS THAN FAIR VALUE (LTFV), AND CBP SHALL REQUIRE A CASH DEPOSIT OR POSTING OF A BOND EQUAL TO THE ESTIMATED PRELIMINARY DUMPING MARGIN OF 210.48% FOR A-570-912-000. SEE MESSAGE 8073203, DATED 03/13/2008.

4. FOR PURPOSES OF THIS INVESTIGATION, THE PRODUCTS COVERED ARE NEW PNEUMATIC TIRES DESIGNED FOR OFF-THE-ROAD AND OFF-HIGHWAY USE, SUBJECT TO EXCEPTIONS IDENTIFIED BELOW.

CERTAIN OTR TIRES ARE GENERALLY DESIGNED, MANUFACTURED AND OFFERED FOR SALE FOR USE ON OFF-ROAD OR OFF-HIGHWAY SURFACES, INCLUDING BUT NOT LIMITED TO:

(1) AGRICULTURAL FIELDS, FORESTS, CONSTRUCTION SITES, FACTORY AND WAREHOUSE INTERIORS, AIRPORT TARMACS, PORTS AND HARBORS, MINES, QUARRIES, GRAVEL YARDS, AND STEEL MILLS. THE VEHICLES AND EQUIPMENT FOR WHICH CERTAIN OTR TIRES ARE DESIGNED FOR USE INCLUDE, BUT ARE NOT LIMITED TO:

(1) AGRICULTURAL AND FORESTRY VEHICLES AND EQUIPMENT, INCLUDING AGRICULTURAL TRACTORS (SEE FOOTNOTE 1); COMBINE HARVESTERS (SEE FOOTNOTE 2); AGRICULTURAL HIGH CLEARANCE SPRAYERS (SEE FOOTNOTE 3); INDUSTRIAL TRACTORS (SEE FOOTNOTE 4); LOG-SKIDDERS (SEE FOOTNOTE 5); AGRICULTURAL IMPLEMENTS, HIGHWAY-TOWED IMPLEMENTS, AGRICULTURAL LOGGING, AND AGRICULTURAL, INDUSTRIAL, SKID-STEERS/MINI-LOADERS (SEE FOOTNOTE 6)

(2) CONSTRUCTION VEHICLES AND EQUIPMENT, INCLUDING EARTHMOVER ARTICULATED DUMP PRODUCTS, RIGID FRAME HAUL TRUCKS (SEE FOOTNOTE 7); FRONT END LOADERS (SEE FOOTNOTE 8); DOZERS (SEE FOOTNOTE 9) LIFT TRUCKS, STRADDLE CARRIERS (SEE FOOTNOTE 10); GRADERS (SEE FOOTNOTE 11); MOBILE CRANES, COMPACTORS; AND

(3) INDUSTRIAL VEHICLES AND EQUIPMENT, INCLUDING SMOOTH FLOOR, INDUSTRIAL, MINING, COUNTER BALANCED LIFT TRUCKS, INDUSTRIAL AND MINING VEHICLES OTHER THAN SMOOTH FLOOR, SKID-STEERS/MINI-LOADERS, AND SMOOTH FLOOR OFF-THE-ROAD COUNTER BALANCED LIFT TRUCKS (SEE FOOTNOTE 12).

THE FOREGOING LIST OF VEHICLES AND EQUIPMENT GENERALLY HAVE IN COMMON THAT THEY ARE USED FOR HAULING, TOWING, LIFTING, AND/OR LOADING A WIDE VARIETY OF EQUIPMENT AND MATERIALS IN AGRICULTURAL, CONSTRUCTION AND INDUSTRIAL SETTINGS. THE FOREGOING DESCRIPTIONS ARE ILLUSTRATIVE OF THE TYPES OF VEHICLES AND EQUIPMENT THAT USE CERTAIN OTR TIRES, BUT ARE NOT NECESSARILY ALL-INCLUSIVE. WHILE THE PHYSICAL CHARACTERISTICS OF CERTAIN OTR TIRES WILL VARY DEPENDING ON THE SPECIFIC APPLICATIONS AND CONDITIONS FOR WHICH THE TIRES ARE DESIGNED (E.G., TREAD PATTERN AND DEPTH), ALL OF THE TIRES WITHIN THE SCOPE HAVE IN COMMON THAT THEY ARE DESIGNED FOR OFF-ROAD AND OFF-HIGHWAY USE. EXCEPT AS DISCUSSED BELOW, OTR TIRES INCLUDED IN THE SCOPE OF THE PETITIONS RANGE IN SIZE (RIM DIAMETER) GENERALLY BUT NOT EXCLUSIVELY FROM 8 INCHES TO 54 INCHES. THE TIRES MAY BE EITHER TUBE-TYPE OR TUBELESS, RADIAL OR NON-RADIAL, AND INTENDED FOR SALE EITHER TO ORIGINAL EQUIPMENT MANUFACTURERS OR THE REPLACEMENT MARKET. THE

SUBJECT MERCHANDISE IS CURRENTLY CLASSIFIABLE UNDER HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES ("HTSUS") SUBHEADINGS:

4011.20.10.25, 4011.20.10.35, 4011.20.50.30, 4011.20.50.50,
4011.61.00.00, 4011.62.00.00, 4011.63.00.00, 4011.69.00.00,
4011.92.00.00, 4011.93.40.00, 4011.93.80.00, 4011.94.40.00, AND
4011.94.80.00. WHILE HTSUS SUBHEADINGS ARE PROVIDED FOR

CONVENIENCE AND CUSTOMS PURPOSES, OUR WRITTEN DESCRIPTION OF THE SCOPE IS DISPOSITIVE.

FOOTNOTES

(1) AN AGRICULTURAL TRACTOR IS A FOUR-WHEELED VEHICLE USUALLY WITH LARGE REAR TIRES AND SMALL FRONT TIRES THAT IS USED TO TOW FARMING EQUIPMENT.

(2) A COMBINE HARVESTER IS USED TO HARVEST CROPS SUCH AS CORN OR WHEAT.

(3) AN AGRICULTURAL SPRAYER IS USED TO IRRIGATE AGRICULTURAL FIELDS.

(4) AN INDUSTRIAL TRACTOR IS A FOUR-WHEELED VEHICLE USUALLY WITH LARGE REAR TIRES AND SMALL FRONT TIRES THAT IS USED TO TOW INDUSTRIAL EQUIPMENT.

(5) A LOG SKIDDER HAS A GRAPPLING LIFT ARM THAT IS USED TO GRASP, LIFT AND MOVE TREES THAT HAVE BEEN CUT DOWN TO A TRUCK OR TRAILER FOR TRANSPORT TO A MILL OR OTHER DESTINATION.

(6) A SKID-STEER LOADER IS A FOUR-WHEEL DRIVE VEHICLE WITH THE LEFT-SIDE DRIVE WHEELS INDEPENDENT OF THE RIGHT-SIDE DRIVE WHEELS AND LIFT ARMS THAT LIE ALONGSIDE THE DRIVER WITH THE MAJOR PIVOT POINTS BEHIND THE DRIVER'S SHOULDERS. SKID-STEER LOADERS ARE USED IN AGRICULTURAL, CONSTRUCTION AND INDUSTRIAL SETTINGS.

(7) A HAUL TRUCK, WHICH MAY BE EITHER RIGID FRAME OR ARTICULATED (I.E., ABLE TO BEND IN THE MIDDLE) IS TYPICALLY USED IN MINES, QUARRIES AND CONSTRUCTION SITES TO HAUL SOIL, AGGREGATE, MINED ORE, OR DEBRIS.

(8) A FRONT LOADER HAS LIFT ARMS IN FRONT OF THE VEHICLE. IT CAN SCRAPE MATERIAL FROM ONE LOCATION TO ANOTHER, CARRY

MATERIAL IN ITS BUCKET OR LOAD MATERIAL INTO A TRUCK OR TRAILER.

(9) A DOZER IS A LARGE FOUR-WHEELED VEHICLE WITH A DOZER BLADE THAT IS USED TO PUSH LARGE QUANTITIES OF SOIL, SAND, RUBBLE, ETC., TYPICALLY AROUND CONSTRUCTION SITES. THEY CAN ALSO BE USED TO PERFORM "ROUGH GRADING" IN ROAD CONSTRUCTION.

(10) A STRADDLE CARRIER IS A RIGID FRAME, ENGINE-POWERED MACHINE THAT IS USED TO LOAD AND OFFLOAD CONTAINERS FROM CONTAINER VESSELS AND LOAD THEM ONTO (OR OFF OF) TRACTOR TRAILERS.

(11) A GRADER IS A VEHICLE WITH A LARGE BLADE USED TO CREATE A FLAT SURFACE. GRADERS ARE TYPICALLY USED TO PERFORM FINISH GRADING. GRADERS ARE COMMONLY USED IN MAINTENANCE OF UNPAVED ROADS AND ROAD CONSTRUCTION TO PREPARE THE BASE COURSE ONTO WHICH ASPHALT OR OTHER PAVING MATERIAL WILL BE LAID.

(12) A COUNTERBALANCED LIFT TRUCK IS A RIGID FRAME, ENGINE-POWERED MACHINE WITH LIFT ARMS THAT HAS ADDITIONAL WEIGHT INCORPORATED INTO THE BACK OF THE MACHINE TO OFFSET OR COUNTERBALANCE THE WEIGHT OF LOADS THAT IT LIFTS SO AS TO PREVENT THE VEHICLE FROM OVERTURNING. AN EXAMPLE OF A COUNTERBALANCED LIFT TRUCK IS A COUNTERBALANCED FORK LIFT TRUCK. COUNTERBALANCED LIFT TRUCKS MAY BE DESIGNED FOR USE ON SMOOTH FLOOR SURFACES, SUCH AS A FACTORY OR WAREHOUSE, OR OTHER SURFACES, SUCH AS CONSTRUCTION SITES, MINES, ETC.

END OF FOOTNOTES

SPECIFICALLY EXCLUDED FROM THE SCOPE ARE NEW PNEUMATIC TIRES DESIGNED, MANUFACTURED AND OFFERED FOR SALE PRIMARILY FOR ON-HIGHWAY OR ON-ROAD USE, INCLUDING PASSENGER CARS, RACE CARS, STATION WAGONS, SPORT UTILITY VEHICLES, MINIVANS, MOBILE HOMES, MOTORCYCLES, BICYCLES, ON-ROAD OR ON-HIGHWAY TRAILERS, LIGHT TRUCKS, AND TRUCKS AND BUSES. SUCH TIRES GENERALLY HAVE IN COMMON THAT THE SYMBOL "DOT" MUST APPEAR ON THE SIDEWALL,

CERTIFYING THAT THE TIRE CONFORMS TO APPLICABLE MOTOR VEHICLE SAFETY STANDARDS. SUCH EXCLUDED TIRES MAY ALSO HAVE THE FOLLOWING DESIGNATIONS THAT ARE USED BY THE TIRE AND RIM ASSOCIATION:

PREFIX LETTER DESIGNATIONS:

1. P - IDENTIFIES A TIRE INTENDED PRIMARILY FOR SERVICE ON PASSENGER CARS;

2. LT - IDENTIFIES A TIRE INTENDED PRIMARILY FOR SERVICE ON LIGHT TRUCKS; AND,

3. ST - IDENTIFIES A SPECIAL TIRE FOR TRAILERS IN HIGHWAY SERVICE.

SUFFIX LETTER DESIGNATIONS:

4. TR - IDENTIFIES A TIRE FOR SERVICE ON TRUCKS, BUSES, AND OTHER VEHICLES WITH RIMS HAVING SPECIFIED RIM DIAMETER OF NOMINAL PLUS 0.156" OR PLUS 0.250";

5. MH - IDENTIFIES A TIRE FOR MOBILE HOMES;

6. HC - IDENTIFIES A HEAVY DUTY TIRE DESIGNATED FOR USE ON "HC" 15" TAPERED RIMS USED ON TRUCKS, BUSES, AND OTHER VEHICLES. THIS SUFFIX IS INTENDED TO DIFFERENTIATE AMONG TIRES FOR LIGHT TRUCKS, AND OTHER VEHICLES OR OTHER SERVICES, WHICH USE A SIMILAR DESIGNATION.

7. EXAMPLE: 8R17.5 LT, 8R17.5 HC;

8. LT - IDENTIFIES LIGHT TRUCK TIRES FOR SERVICE ON TRUCKS, BUSES, TRAILERS, AND MULTIPURPOSE PASSENGER VEHICLES USED IN NOMINAL HIGHWAY SERVICE; AND

9. MC - IDENTIFIES TIRES AND RIMS FOR MOTORCYCLES. THE

FOLLOWING TYPES OF TIRES ARE ALSO EXCLUDED FROM THE SCOPE: PNEUMATIC TIRES THAT ARE NOT NEW, INCLUDING RECYCLED OR RETREADED TIRES AND USED TIRES; NON-PNEUMATIC TIRES, INCLUDING SOLID RUBBER TIRES; TIRES OF A KIND USED ON AIRCRAFT, ALL-TERRAIN VEHICLES, AND VEHICLES FOR TURF, LAWN AND GARDEN, GOLF AND TRAILER APPLICATIONS; AND TIRES OF A KIND USED FOR MINING AND CONSTRUCTION VEHICLES AND EQUIPMENT THAT HAVE A RIM DIAMETER EQUAL TO OR EXCEEDING 39 INCHES. SUCH TIRES MAY BE DISTINGUISHED FROM OTHER TIRES OF SIMILAR SIZE BY THE NUMBER OF PLIES THAT THE CONSTRUCTION AND MINING TIRES CONTAIN (MINIMUM OF 16) AND THE WEIGHT OF SUCH TIRES (MINIMUM 1500 POUNDS).

5. FOR FURTHER REPORTING PURPOSES, THIS CASE HAS BEEN ASSIGNED INVESTIGATION NUMBER A-570-912.

6. IF THERE ARE ANY QUESTIONS REGARDING THIS MATTER BY CBP OFFICERS, THE IMPORTING PUBLIC OR INTERESTED PARTIES, PLEASE CONTACT DAVINA HASHMI OR RON TRENTAM AT OFFICE OF AD/CVD OPERATIONS, IMPORT ADMINISTRATION, INTERNATIONAL TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, AT (202) 482-0984 OR (202) 482-3577 RESPECTIVELY (GENERATED BY: O8:LRL)

6. THERE ARE NO RESTRICTIONS ON THE RELEASE OF THIS INFORMATION.

DAVID M. GENOVESE

Company Details

*Party Indicator Value:

I = Importer, M = Manufacturer, E = Exporter, S = Sold To Party